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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,148	02/16/2001	Ronald J. Pavlik	1260.05	2131
7590	09/16/2005		EXAMINER	
MELVIN K. SILVERMAN SUITE 500 500 WEST CYPRESS CREEK ROAD FORT LAUDERDALE, FL 33309			ROSEN, NICHOLAS D	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/784,148	PAVLIK, RONALD J.
	Examiner	Art Unit
	Nicholas D. Rosen	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 July 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 3,4,6-15 and 17-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 3,4,6-15 and 17-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 16 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Claims 3, 4, 6-15, and 17-22 have been examined.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 23, 2005, has been entered.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it is considerably in excess of 150 words, and does not even fit on one page, making it on two separate sheets, rather than a separate sheet. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

Claims 21, 3, 4, 6-15, 17-20, and 22 are objected to because of the following informalities: At the end of the twelfth line of claim 21 (part (b)(iii)), the period should be a semicolon. In the twenty-first line of claim 21, there should be a comma between "other personal data" and "said shopper profile", or perhaps Applicant intends "other personal data in said shopper profile". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 3, 4, 6-15, 17-20, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 is unclear in that it recites, in part (b), "selecting a product search mode from the mode members comprising: (i), (ii), and (iii)." Then it recites, "(c) when step (b)(iii) is selected," leaving unclear what happens when (b)(i) and/or (b)(ii) is or are selected; and whether the claim limitations are met if someone selects (b)(i) or (b)(ii), and receives suggestions (e), without any action under (c) or (d) ((since (d) depends on (c)). Furthermore, "(b)(i) physically looking at a product on display therein" is unclear, because it could be interpreted as physically looking at an image of a product, as well as looking at an actual, physical product on display.

Claim 21 recites the limitation "said intranet access means" in the eleventh and twelfth lines. There is insufficient antecedent basis for this limitation in the claim. Also, "suitable coordinates for said products" in the eighteenth line poses a problem, since the antecedent basis is for a product, singular.

Claim 3 and claims 15 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 and claim 15 each recite "accessing said criteria of said suggestion(s) categories" (with an (s) after "suggestion" in claim 3), but it is unclear whether it is the criteria which are actually to be accessed – something not supported by the specification – or the suggestions.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 3, 4, 8, 11, 13, 15, 17, 18, 19, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent 6,123,259) in view of official notice. As per claim 21, Ogasawara discloses a method of retail shopping including an establishment-specific Intranet (the Intranet being implied by the ability of multiple terminals to access the store central computer, e.g., column 3, lines 38-48), the method comprising the steps of: (a) assigning an establishment specific shopper profile

to each customer and digitally expressing the same in a memory of the intranet (Abstract; column 1, lines 17-40; column 3, lines 38-48); within a retail shopping establishment, selecting a product search mode of (iii) proceeding to an intelligent shopping station (ISS) including said establishment intranet, and accessing said intranet with intranet access means (Abstract; column 1, lines 17-40; column 3, lines 38-48); (c) when said step (b)(iii) is selected, employing said ISS to use and view a display thereof (Abstract; column 1, lines 17-40; column 4, lines 54-67); (d) at said display, accessing product specific information regarding a product within searchable databases of the ISS, selected from inquiry categories including suitable coordinates for said product (column 6, lines 37-59); and (e) receiving suggestions regarding said product in accordance with one or more criteria selected from the group including geographical region, season, age of shopper, other personnel data, said shopper profile, price range of interest, current discounts, and by random (column 13, line 52, through column 15, line 50; column 15, lines 51, through column 16, line 11).

Ogasawara does not expressly disclose (b)(i) physically looking at a product on display in a retail establishment, or (b)(ii) observing a static, dynamic, or other pre-defined electronic image or series thereof, but official notice is taken that looking at products on display in retail establishments, and electronic images thereof (at kiosks, in-store TV, etc.) are well known, and are just the kind of thing over which Ogasawara's invention is offered as an improvement. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do

these, for the obvious advantage of finding desired products, and/or information concerning such products.

Ogasawara does not expressly disclose that the display is a graphical user interface, but official notice is taken that graphical user interfaces are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the display to a GUI, for the obvious advantage of displaying information through standard, well-known means.

As per claim 3, Ogasawara discloses accessing suggested products in accordance with a selected store display site or department displayed on a graphical display (column 9, lines 27-44).

As per claim 4, Ogasawara does not disclose executing a zoom function upon any visually expressed suggestion(s) of said sorting receiving step, but official notice is taken that executing a zoom function is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to execute a zoom function upon any visually expressed suggestion(s) of said sorting receiving step, for the obvious advantages of enabling details to be clearly seen, and making print legible for persons with poor eyesight.

As per claim 8, Ogasawara's entire inventive concept may be viewed as providing customer assistance at an ISS; moreover official notice is taken that it is well known to provide customer assistance (e.g., by a Help button on a computer screen, or by a clerk dropping by to ask if assistance is needed). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of

applicant's invention to provide customer assistance at said ISS during any of the recited ISS use steps, for the obvious advantage of assuring that the customer is able to make purchases or perform other desired (and profitable) actions.

As per claim 11, Ogasawara does not disclose positioning a fabric sample table near said electronic images and/or said ISS, but official notice is taken that it is well known to position sample tables in stores. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to position a fabric sample table near said electronic images and/or said ISS, for the obvious advantage of enabling customers to see and feel fabric samples, that they might then purchase the corresponding fabrics.

As per claim 13, Ogasawara discloses that the intranet access means comprises a panel, apparently of credit card size and dimension (column 6, lines 12-25).

As per claim 15, Ogasawara discloses accessing suggested products in accordance with a selected store display site or department displayed on a graphical display (column 9, lines 27-44). Ogasawara does not disclose that the store display sites or departments are displayed by random, but official notice is taken that it is well known to select displays at random. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the store sites or departments to be displayed by random, for the obvious advantages of providing variety, and exposing potential customers to ads and information that they might not think to request.

As per claim 17, Ogasawara does not disclose click- or cursor-selecting a product of interest shown in a store display site, and providing selectable information about that product, but official notice is taken that it is well known to click- or cursor-select a product, and provide selectable information about that product (a typical feature of e-commerce web sites, for example). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to click- or cursor-select a product, and provide selectable information about that product, for the obvious advantage of advertising the product, and increasing the chance of it being purchased.

As per claim 18, executing a zoom function is held to be obvious as set forth above in regard to claim 4.

As per claims 19 and 20, Ogasawara discloses providing views of product alternatives and/or coordinates (column 9, lines 27-44). (Spallone, U.S. Patent 4,959,686, is explicit about providing alternative products [Figure 10; column 7, lines 6-16].)

As per claim 22, the display of promotional items (column 15, lines 51, through column 16, line 11) is performed for the benefit to management of selling items which the store management seeks to sell, and is thus presumably arranged in accordance with management priorities.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent 6,123,259) and official notice as applied to claim 21 above, and further in view of Suzuki (U.S. Patent 6,129,274). As per claim 6, Ogasawara

discloses (f1) obtaining a bar code tag or element corresponding to a product of potential interest (e.g., column 8, line 55, through column 9, line 7), but not (g1) bringing the tag to said ISS to consummate a sales transaction; however, Suzuki teaches (g1) bringing the tag to a kiosk terminal to consummate a sales transaction (column 8, line 54, through column 9, line 38; column 12, lines 35-54). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to bring the tag to said ISS to consummate a sales transaction, for the obvious advantages of obtaining the desired product and profiting from the sale of that product, and as Suzuki teaches, recording sales histories.

As per claim 9, Ogasawara's entire inventive concept may be viewed as providing customer assistance at an ISS; moreover official notice is taken that it is well known to provide customer assistance (e.g., by a Help button on a computer screen, or by a clerk dropping by to ask if assistance is needed). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide customer assistance at said ISS during any of the recited ISS use steps, for the obvious advantage of assuring that the customer is able to make purchases or perform other desired (and profitable) actions.

Claims 7, 10, and 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent 6,123,259) and official notice as applied to claim 21 above, and further in view of Treyz et al. (U.S. Patent 6,587,835). As per claim 7, official notice is taken that determining a product of interest by seeing it, or an image of it, in a retail establishment is well known. Treyz discloses bringing a tag or bar code to

computing device to effect an on-line order of the desired product in which offsite fulfillment means are employed by the device (column 28, lines 5-42). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to carry out the recited steps, for the stated advantage of ordering desired products offered on-line. (Note also Perkowski, U.S. Patent 6,625,581, column 35, line 25, through column 36, line 65.)

As per claim 10, Ogasawara's entire inventive concept may be viewed as providing customer assistance at an ISS; moreover official notice is taken that it is well known to provide customer assistance (e.g., by a Help button on a computer screen; or by a clerk dropping by to ask if assistance is needed). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide customer assistance at said ISS during any of the recited ISS use steps, for the obvious advantage of assuring that the customer is able to make purchases or perform other desired (and profitable) actions.

As per claim 12, Ogasawara does not disclose storing each customer product search for purposes of later external Internet access through the use of said intranet access means, but Treyz teaches connecting a computing device to a network by media swapping, i.e., transferring a media card between one device and a second in communication with the network (column 27, line 65, through column 28, line 4; column 28, lines 42-64). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to store each product search as recited, for later external Internet access, which is Treyz's stated advantage.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent 6,123,259) and official notice as applied to claim 13 above, and further in view of Suzuki (U.S. Patent 6,129,274). Ogasawara does not disclose that the panel comprises a retail store charge card, but not only is official notice taken that such charge cards are well known, but Suzuki teaches using a customer smart card to interface at a point-of-sale terminal (column 6, lines 31-52). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the panel to comprise a retail store charge card, for the obvious advantage of conveniently charging the purchases made, and the further advantage to the store of interest charges on the purchases accruing to the store rather than an outside financial institution.

### ***Response to Arguments***

Applicant's arguments with respect to claims 21, 3, 4, 6-15, 17-20, and 22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spallone et al. (U.S. Patent 4,959,686) disclose an automated shopping order entry system (note especially Figure 10, and column 7, lines 6-16, for recommendation of alternative items). O'Hagan et al. (U.S. Patent 6,314,406) disclose a customer information network. Perkowski (U.S. Patent 6,625,581) discloses a method

and system for the access of consumer product related information (see especially columns 35 and 36).

Herz et al. (U.S. Patent Application Publication 2001/0014868) disclose a system for the automatic determination of customized prices and promotions. Ogasawara (U.S. Patent Application Publication 2002/0016740) discloses a system and method for customer recognition using wireless identification and visual data transmission. Sone (U.S. Patent Application Publication 2002/0035560) discloses a system and method for adaptively configuring a shopping display in response to a recognized customer profile. Stern (U.S. Patent Application Publication 2002/0069113) discloses a method and apparatus for distributing audiovisual content. Hager et al. (U.S. Patent Application Publication 2004/0225578) disclose a consumer shopping tool to augment retail sales.

The anonymous article, "Riva Profits from Demand for Smarter Retailers," discloses in-store multimedia kiosks, with store cards for consumers to swipe to be offered special deals. Dalton et al. ("Retailers Launch Cyber Kiosks") disclose in-store intranet kiosks. The anonymous article, "Boots Adopts 'Differentiation Strategy' to Fight Price Cutting," discloses card kiosks in stores.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*

**NICHOLAS D. ROSEN  
PRIMARY EXAMINER**

September 12, 2005